



WISCONSIN

**DEPARTMENT OF WORKFORCE DEVELOPMENT**

Division of Workforce Solutions  
Bureau of Workforce Programs

**TO: Economic Support Supervisors  
Economic Support Lead Workers  
Training Staff  
Child Care Coordinators  
W-2 Agencies**

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**BWP OPERATIONS MEMO**

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**File: 2410  
2810**

**Date: 08/23/2001**

**Non W-2 [X] W-2 [X] CC [ ]**

**PRIORITY: High**

**SUBJECT: DRUG FELON POLICY CLARIFICATION AND CARES SCREEN ANDF**

**CROSS REFERENCE:** Food Stamp Handbook, Appendix 19.1  
W-2 Manual, 11.7.0  
Operations Memo (OM) 98-09  
§ 49.148(4) and 49.124(5), Wis. Stats.

**EFFECTIVE DATE:** Immediately

**PURPOSE**

This memo clarifies policy for convicted drug felons as they relate to the Wisconsin Works (W-2) and Food Stamp (FS) Programs. It also describes how the new version of screen ANDF in CARES is used to process drug felons.

**BACKGROUND**

On August 22, 1996, the Personal Responsibility and Work Opportunity Reconciliation Act (PRWORA) was signed into law. This law mandated that states sanction convicted drug felons applying for or receiving Temporary Assistance for Needy Families (TANF) assistance or FS. The Wisconsin Legislature passed a law in 1997 which provided instructions on how to apply sanctions to convicted drug felons applying for or receiving Wisconsin Works (W-2) or FS. Operations Memo (OM) 98-09 was issued giving basic instructions for food stamp policy and screen ANDF was created in CARES to implement food stamp and W-2 policy.

ANDF has never allowed for the correct processing of FS drug felons and instructions were given in OM 98-09 to use screen AIIP to process them as Intentional Program Violators (IPV). This OM will replace those instructions since screen ANDF will now correctly process both FS and W-2 drug felons. ANDF currently holds only W-2 drug felon sanctions.

## ***FOOD STAMP DRUG FELON POLICY***

For FS purposes, a drug felon is a person (adult or a minor) who is convicted of a felony in a state or federal court involving the possession, use or distribution of a controlled substance after August 22, 1996 and within the last 5 years. Convicted drug felons must have a negative drug test result (pass) to become eligible for FS. Drug felons that have a positive drug test result (fail) will be sanctioned.

The cost of drug testing must be paid for by the local agency. If the drug felon passes the drug test do not test again at each review. Drug tests required by another credible source may be used if taken within the last 30 days. If a previous drug test result is offered but is older than 30 days, require a new drug test. Examples of credible sources include, but are not limited to, probation officers, employers, FEPs, etc. Recipients may be confused as to whether their conviction was a misdemeanor or felony, so the conviction type must be verified.

### ***APPLICATIONS***

Applicants who meet the definition of a drug felon and agree to take a drug test will be tentatively approved until a drug test is taken. If the individual passes this test, s/he remains eligible. If the applicant refuses to take a drug test, s/he will be denied indefinitely until s/he agrees to take a drug test.

If the drug test result is positive, the individual is ineligible for 12 months from the next possible payment month. If the drug test result is negative, the individual remains eligible. Do not retest the individual at review.

Applicants who miss a scheduled drug test should be sanctioned immediately. If the applicant then agrees to take a test within the application period, schedule another one. If s/he takes and passes this test, remove the sanction and supplement any benefits missed. If the applicant misses a drug test and requests another test after the initial application period, set up the test. If s/he passes this test, approve benefits for the next possible payment month.

**Example 1:** Jane is applying for FS for herself and her two children on June 19. She admits she is a convicted drug felon and agrees to take a drug test. The worker schedules the drug test for June 25<sup>th</sup>. No other verification is needed by June 21, so the worker processes the application and Jane is found eligible for June, July, and August FS benefits. The worker receives results from the drug test on July 2<sup>nd</sup>. Jane tested positive on the drug test. Her worker keys the sanction on CARES screen ANDF on July 3<sup>rd</sup>. Jane will be sanctioned effective August 1<sup>st</sup> for 12 months. Her two children remain eligible for FS.

### ***ONGOING CASES***

If a felony drug conviction is reported (and verified) for an eligible FS member at review or any other time, immediately schedule the individual for a drug test. Refusal to take a drug test will result in the felon being removed from the FS assistance group indefinitely until the individual agrees to take the test. If a felon tests positive on a drug test, deny FS for the individual for 12 months starting in the next possible benefit month.

**Example 2:** Bob is receiving FS with his girlfriend and her daughter. He was convicted of a drug felony on June 29<sup>th</sup> and reported this at his July review on July 12<sup>th</sup>. He was placed on probation as a result of his conviction. He refuses to take a drug test. The worker enters the sanction in CARES on screen ANDF immediately. Bob will be sanctioned beginning with the next possible payment month and will remain ineligible until he agrees to take a drug test. If he had agreed to take the test and failed, he would be sanctioned effective the next possible benefit month for 12 months.

### *REGAINING ELIGIBILITY*

To regain eligibility after 12 months the drug felon must reapply and submit to another drug test. If the individual does not submit to a test, continue to deny the individual until a test is agreed to. If the person agrees to take a test, continue to deny the individual until the results are received.

If the second drug test is negative, the person may be eligible for the FS Program as of the first of the month following the month in which the individual agreed to take the test. If the second test results are positive, the person is ineligible for the FS program for an additional 12 months.

As with other sanctions that end, the individual must re-request FS. The individual will not automatically be eligible when the sanction period ends.

### *DEEMING*

If the ineligible drug felon is still in the home, deem that person's income, assets, and expenses to the FS group. See FS Handbook 15.6.0. for information on deeming.

## **W-2 DRUG FELON POLICY**

For W-2 purposes, a drug felon is an adult (over 18) who is convicted of a felony, which occurred after August 22, 1996 and within the last 5 years in state or federal court, involving the possession, use or distribution of a controlled substance. As a condition of continuing eligibility, a CSJ or W-2 T participant who reports that he or she has been convicted of a drug-related felony within the timeframe above must submit to a test for use of a controlled substance.

The cost of drug testing must be paid for by the local agency. Drug tests taken from another credible source may be used if taken within the last 30 days. If a previous drug test result is offered but is older than 30 days, require a new drug test. Examples of credible sources include, but are not limited to, probation officers, employers, FEPs, etc.

### *GUIDELINES FOR W-2 APPLICANTS OR ONGOING PARTICIPANTS*

Here are 3 likely scenarios:

1. The applicant or participant will be considered ineligible if he/she meets the definition of a drug felon and **refuses** to take a drug test. The individual can gain eligibility as long as he/she agrees to take a drug test.
2. The applicant or participant will be eligible for a reduced W-2 payment if he/she meets the definition of a drug felon, takes a drug test, and test result is positive.
3. The applicant or participant will be eligible for full W-2 payment if he/she meets the definition of a drug felon, takes a drug test, and the test result is negative.

If an applicant has agreed to a drug test, he/she is considered eligible for a full W-2 payment while the worker is waiting for the test results. If the test result is positive, then sanction the next possible payment month. The pre-sanction payment is to be reduced by not more than 15% for no fewer than 12 months, or for the participant's remaining period of participation in a CSJ or W-2 T, if less than 12 months. Within these parameters, the sanction period and amount are set at the discretion of the worker. The number of months of the sanction period will be consecutive calendar months that continue irrespective of whether an individual moves between placements, moves on and off W-2, or receives a payment.

**Example 3:** Scott applies for W-2 and reports a drug felony conviction on March 3, 1999. As he is being placed in a W-2 T, he is required to take a drug test to meet conditions of eligibility. Scott agrees to take the drug test and the results are positive. The worker applies a 10% reduction for 12 months to Scott's W-2 payment starting in the next possible payment month.

**Example 4:** Janet applies for W-2 on September 15, 2001 and reports a drug felony conviction. The conviction occurred on August 29, 1996. There would be no sanction applied to her W-2 payment since the conviction did not occur within 5 years of the W-2 application date.

If a participant is moving between a CSJ and W-2 T placement, the sanction period does not stop or start over with a different placement but continues. If a participant is moving from a CSJ or W-2 T to a CMC placement, the payment reduction would stop during the CMC placement period but months would continue to be counted towards the sanction period. W-2 payment reduction resumes at the end of the CMC placement if the 12 month sanction period hasn't ended while the participant is in the CMC placement.

**Example 5:** Holly applied for W-2 and received a drug felon sanction for 12 months beginning in January. She has been participating in a CSJ placement with a drug felon payment reduction for 3 months (from January through March). She moves into a CMC slot for months April, May and June. During the CMC placement Holly receives a full W-2 payment. However by the end of June, 6 months of the sanction period will have lapsed. When she moves back into a CSJ placement in July, the payment reduction will resume until December at which point the sanction period ends.

#### *REGAINING FULL W-2 PAYMENT*

The participant will be required to take another drug test at the end of the sanction period to determine whether he/she is eligible for a full W-2 payment.

If, at the end of the sanction period, the individual submits to another drug test and the results are negative, the W-2 agency shall discontinue the drug felon reduction. If, at the end of the sanction period, the individual submits to another drug test and the results are positive, his or her pre-sanction payment will continue to be reduced by not more than 15% for no fewer than 12 months, or for the participant's remaining period of participation in a CSJ or W-2 T, if less than 12 months. All subsequent payment reductions and drug test results will be treated in the same manner.

**NOTE:** The W-2 agency may require an individual who has a positive drug test to participate in a drug abuse evaluation, assessment and treatment program to meet his or her CSJ or W-2 T participation requirements.

**Trial Job and Unsubsidized Employment** participants are **not subject to drug felon** penalties.

**APPLICABILITY OF DRUG TESTS FOR W-2 OR FS**

The time frame that a drug test is valid for either the W-2 or Food Stamp program is **30 days**. Two basic rules apply on how to regard the applicability of test results from one program to the other program:

1. If an individual has applied for both programs within 30 days of each other a **negative test result** (a passed test) can be used in either program's application.
2. If an individual has applied for both programs within 30 days of each other a **positive test result** (a failed test) cannot be applied across programs. The individual will be able to re-test when applying for the second program. If the first test is positive and the second test is negative this will not make him/her eligible or remove a sanction on the first program. It will only affect eligibility for the application of the second program. The previous sanction will remain in place.

**Example 6:** Liz applies for W-2 on January 5 and reports a drug felony conviction. She agrees to take the drug test scheduled for January 9 as a condition of her placement in a CSJ placement. The test results come back negative so no sanction is applied to her W-2 payment. On January 23 Liz applies for the Food Stamp Program. The worker looks on CARES screen ANDF and sees that the drug test has been taken within the last 30 days and it is a negative test result. The worker can accept these results and process the application for FS.

**CARES**

During the intake and review driver flows, screen ANIQ appears and asks several questions including "Has anyone in the household been convicted of a drug felony and is applying for W-2 or FS?" If a "Y" is entered, a new screen, ANDF, is called.

ANDF	DRUG FELON ASSIGNMENT	08/13/01 08:00
CASE: 8700245682	WORKER: XCTC93	XCTC93 D HIPPLER
LAST UPDATED:	CASE STATUS: PENDING	CASE MODE: INTAKE
NUM: __ NAME:	SSN:	
DC: __ BEGIN MMCCYY: _____		
SANCTION TYPE (FS OR W2): __		
WAS THIS A CONVICTION IN THE LAST FIVE YEARS? (Y/N): __ VR : __		
DATE ON WHICH THE CONVICTION OCCURRED : __ __ __ __ VR : __		
HAS THE INDIVIDUAL AGREED TO TAKE A DRUG TEST? (Y/N): __		
DRUG TEST DATE : __ __ __ __ VR : __		
DRUG TEST RESULT DATE : __ __ __ __ VR : __ PASSED DRUG TEST? (Y/N) : __		
SANCTION BEGIN DATE : __ __ __ __ SANCTION END DATE : __ __ __ __		
IS THE INDIVIDUAL RE-REQUESTING FS? (Y/N) : __ RE-REQUEST DATE : __ __ __ __		
W2 PENALTY PERCENTAGE : __		
-----INDIVIDUALS-----		
01 DRUGG F (PP ) 02 SON1 F (SON) 03 DAU1 F (DAU)		
PF24: CALC SANCTION PERIOD		
NEXT TRAN: __ PARS: 8700245682_____		

If the applicant/recipient admits to being a convicted drug felon, ANDF must be completed. In the "sanction type" field, enter either FS or W-2 to signify the type of drug felon sanction. If a

convicted drug felon is applying for or receiving FS **and** a W-2 cash assistance placement, an episode of ANDF must be completed for each type of drug felon sanction (FS and W-2).

Workers must verify that the conviction is a felony, the date of the conviction, the agreement to take a drug test, the date of the drug test, and the result of the drug test. If a sanction should occur according to the policy, enter the appropriate information and hit PF24 to determine the estimated sanction begin date and the sanction end date. This defaults to a 12 month sanction period. These fields can be overridden. Drug Felon sanctions are set for consecutive calendar months and not benefit months.

Since a W-2 sanction results in a reduction of the W-2 grant based on a percentage determined by the FEP, the "W-2 penalty percentage" field must be completed by the FEP for W-2 sanctions. This is a percentage of the W-2 payment amount, anywhere between 1 and 15 percent. This field is left blank for FS sanctions since a FS drug felon sanction removes the individual from the FS assistance group and deems his/her income and assets.

Once a FS drug felon sanction ends, the individual is not automatically eligible for FS. The individual must take and pass a new drug test at that point after re-requesting FS for themselves.

#### *CONVERSION OF W-2 DRUG FELON CASES*

Currently, only W-2 drug felon sanctions are being processed properly using screen ANDF. Since ANDF is being altered, a conversion is necessary for current and historical W-2 drug felon sanctions.

If you are a **FEP** and have an open W-2 case with a drug felon, **review screen ANDF** for accuracy **after July 27, 2001**.

#### *CONVERSION OF FS DRUG FELON CASES*

Workers were instructed in OM 98-09 to use AIIP, the Intentional Program Violation Sanction screen to sanction a FS drug felon.

If you have a case where AIIP was completed to sanction an individual as a FS drug felon when there was no Intentional Program Violation:

1. Delete that screen with an AE delete code immediately.
2. Re-enter the sanction on ANDF if it is still **current** and apply the appropriate sanction end date.
3. If the sanction is **not current**, delete the sanction on AIIP with the AE delete reason code.

#### **CONTACT**

DES CARES Information and Problem Resolution Center: Email: [carpolcc@dwd.state.wi.us](mailto:carpolcc@dwd.state.wi.us)  
Phone: 608-261-6317 (Option #1)  
Fax: 608-266-8358

**Note:** Email contacts are preferred. Thank you.